

THE TOWN OF FOREST HEIGHTS
RESOLUTION 20-21

A RESOLUTION TO AWARD A CONTRACT TO FAULKNER LAWN CARE & CONSTRUCTION INC. BASED ON PREVIOUS PROPOSALS RECEIVED PURSUANT TO REQUESTS FOR PROPOSALS (RFP) 03-FH FOR LANDSCAPING AND SNOW REMOVAL SERVICES AND DUE TO THE ORIGINAL AWARDEE'S ANTICIPATORY BREACH AND FAILURE TO PERFORM THE CONTRACT OF DECEMBER 2020.

Introduced By: Mayor Habeeb-Ullah Muhammad

WHEREAS, the Charter, Section 33-83 states that the Town shall have the power to do whatever may be necessary to protect town property and to keep all Town property in good condition; and

WHEREAS, the Town Ordinance Code, § 20.4(a)(4) mandates that a purchase of \$10,000 or more must be approved by the Council and shall be procured competitively by advertising a request for invitations to bid or a request for proposals, and that a minimum of three (3) bids or proposals are typically required to award a contract; and

WHEREAS, pursuant to Resolution 59-15 approved on October 21, 2015, the Town Council previously awarded a bid for snow removal services as described in Request for Bids (FHRFB 2-15) to a Contractor, Faulkner Lawn Care & Construction Inc., t/a Faulkner Lawn Care & Landscaping; and

WHEREAS, the staff later sought to combine the two service contracts for landscaping and snow removal and an RFP for the Project entitled "Forest Heights Landscaping and Snow Removal Services" was advertised with a due date of Friday, October 23, 2020, 4:00 P.M. and a pre-bid meeting held on October 14, 2020 at 11:00 A.M. at the Municipal Building; and

WHEREAS, as stated in the said RFP, the scope of work is: (i) snow must be removed and/or salt must be spread for approximately 9 miles of local (i.e., municipal) residential streets in accordance with specifications, and (ii) spring and fall cleanup for 21 enumerated Town-owned properties and regular lawn care and maintenance during the period of April 1st through October 30th, which is to include a Fertilizer program; and

WHEREAS, as further stated in the said RFP, (i) the initial contract term was to run from November 1, 2020 through November 1, 2021, (ii) with the possibility of extension for an additional five (5) years, and (iii) with the possibility of an annual price adjustment not to exceed the CPI; and

WHEREAS, RFP 03-FH for landscaping and snow removal services solicited by the Town received bid cost forms from six (6) vendors was summarized as follows:

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ITEM/Vendor	Brown	Capital Air	Faulkner (New)	Majestic	Tri-State (Prior)	Britt
Snow Removal						
Hourly rate one (1) truck:	\$110	\$208	\$145	\$155	\$125	\$310
Hourly rate two (2) trucks	\$220	\$416	\$145	\$300	\$110	\$620
Hourly rate three (3) trucks	\$330	\$624	\$145	\$445	\$110	\$930
Landscaping						
Routine Maintenance:	\$300 per cut	\$72/hr.	\$25,000	\$6,303.20/mo. X 7 mo.	\$2500/mo., bi-weekly	\$89,612
Mow, Trim, Edge and Sweep	\$7800 per year	\$55/hr.	-	- 13 visits (2 visits/mo. For Apr-Sept; 1 in Oct.	-	-
Applications	\$125 per hr.	-	14-16	2 visits	\$230	\$600
Bed Maintenance	\$125 per hr.	\$55/hr.	\$5500	7 visits	\$0 included	\$16,800
Brush and Tree Removal/Trimming	3-man crew	\$249 per site	[*Rev. 4/29/21 to add free areas at \$8K]	-	included	-
Removal of Debris	\$250	\$56/hr.	Included	\$100/ton	\$0 included	\$8100
Special hourly rate if called	\$125	\$92/hr.	\$125	\$185/hr.	\$50/hr.	\$300
Cost of salt or other compounds if supplied	Included	\$4800 per truck	\$50/100lbs.	\$20/50 lbs. bag	\$100/ton	1.09

WHEREAS, the Town Council passed Resolution 65-20 on November 18, 2020 awarding the contract for landscaping and snow removal services to Tri-State Solutions of Maryland, LLC, and on December 7, 2020 the Council passed Resolution 71-20 approving a contract with said vendor; and

WHEREAS, Tri-State's Vice President wrote a letter dated March 30, 2021 to the Public Works Director stating that due to the ongoing Covid-19 Pandemic and the enhanced safety requirements it demands, Tri-State will no longer be able to supply landscaping services to the Town of Forest Heights at the current contract rate, and Tri-State will need to increase its contract rate for service to \$5,000 per month; and

WHEREAS, pursuant to the current contract of last December, Tri-State Solutions of Maryland, LLC, was only permitted to terminate due to default with at least 60 days' notice; however, the

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Town has not been in default on the agreement and said letter from the vendor appeared to constitute an anticipatory breach of the contract especially since there is no "force majeure" clause in the contract; and

WHEREAS, Tri-State has not responded to a letter from the Town Administrator sent on April 8, 2021 thereby requesting assurances that Tri-State plans to honor its obligations under the contract and retract its anticipatory breach thereof, and another letter was sent by registered mail on April 20, 2021 providing a final notice of breach and termination effective May 8, 2021; and

WHEREAS, the Mayor and Council finds that the Town has a duty to mitigate its damages but it also should be able to recover its benefit of the bargain or expectation damages which means it may claim the difference in cost under this contract with the new replacement one; therefore, the Town hereby awards the contract to another firm and may seek a court judgment to recoup any damages if this matter cannot be settled; and

WHEREAS, the Town staff now recommends that the subject contract for landscaping and snow removal services along with some minor revisions to the scope of work be awarded to Faulkner Lawn Care & Construction Inc. to replace Tri-State; and

WHEREAS, the Town Council finds that the recommended vendor from the previous RFP is the next lowest or best bidder or proposer, for the quality of goods and work, time of delivery or completion, and responsibility of bidders being considered, and a written contract will be approved by the Council before work substantially continues further.

NOW THEREFORE BE IT RESOLVED, that the Town Council hereby approves the contract for landscaping and snow removal services with Faulkner Lawn Care & Construction Inc., at a budgeted total amount of \$38,500 annually for landscaping services for a 7-month period approximating \$ 5,500.00 billed monthly, but the Contractor shall be paid based on work satisfactorily completed and invoiced for both landscaping and snow removal services, according to the terms and conditions stated therein, as attached hereto and incorporated by reference herein as Exhibit A.

AND BE IT FURTHER RESOLVED, that the Mayor shall be authorized to sign the contract on behalf of the Town consistent with the scope of work, terms and conditions set forth in the RFP previously approved by the Council, as revised, which further includes \$8,000.00 for enhanced tree trimming as stated in Article II(A.)(ii)(4) of said contract.

AND BE IT FURTHER RESOLVED, that the Town Council will appropriate funds as deemed necessary in its annual budget to cover the costs attributable to snow and ice removal under this contract.

AND BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon passage.

PASSED this 8 day of May 2021.

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APPROVED: By Resolution of the Town Council of The Town of Forest Heights, Maryland

ROLL CALL VOTE

YEA/NAY/ABSTAIN/ABSENT

MUHAMMAD

KENNEDY II

NOBLE

BARNES

HINES

WASHINGTON

ATKINSON

Yea
Yea
Yea
Yea
Yea
Yea
Yea

ATTEST:

THE TOWN OF FOREST HEIGHTS,
MARYLAND

SIGNATURE ON FILE

Sherletta Hawkins, Town Clerk

SIGNATURE ON FILE

By: Mayor Habeeb-Ullah Muhammad, Mayor

SIGNATURE ON FILE

By: Calvin Washington, Council President

CERTIFICATION

I, hereby certify, as the duly appointed Town Clerk of the Town of Forest Heights, Maryland, that on the 3 day of May 2021 with 7 Aye votes and 0 Nay votes the aforesaid Resolution 20-21 passed.

SIGNATURE ON FILE

Sherletta Hawkins, Town Clerk

Exhibit – (A CONTRACT AGREEMENT WITH FAULKNER LAWN CARE & CONSTRUCTION INC. - (BID NO.: FHRFB-03/04 - SNOW REMOVAL AND LANDSCAPING)